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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/751,349	12/28/2000	Jeffrey S. Hamilton	T730-10	8813

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EXPANSE NETWORKS, INC.  
6206 KELLERS CHURCH ROAD  
PIPERSVILLE, PA 18947

EXAMINER

MANNING, JOHN

ART UNIT	PAPER NUMBER
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2614

DATE MAILED: 05/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/751,349

Applicant(s)

HAMILTON ET AL.

Examiner

John Manning

Art Unit

2614

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 6+7
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102.***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-9, 12 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Tsuria (US Pat No. 5,786,845).

In regard to claim 1, the Tsuria reference discloses a device for displaying an alternate signal on a screen of a video display device during a tune operation. The claimed limitation of “a memory for storing one or more local signals” is met by the memory unit 30 of Figure 1. “The advertisement data is processed by processor 28 and stored in memory unit 30” (Col 3, Lines 60-61). The claimed limitation of “a processor for recognizing the delay period associated with the channel change command” is met by processor 28 of Figure 1. The claimed limitation of “a signal insertion module, coupled to the memory and the processor, for retrieving a local signal from the memory and for inserting the local signal in the delay period” is also met by processor 28 of Figure 1. “During zapping periods, processor 28 is operable to retrieve the advertisement data from memory 30 and to provide it, via D/A 26, to combiner and amplifier 32 for displaying the advertisement data on television 14” (Col 3, Lines 61-65).

In regard to claim 2, Tsuria discloses the use of targeted advertisements. The displayed advertisements are associated with the channel the use is tuned to. The "separate advertisements are associated with separate channels. An advertisement is displayed on television 14 only between the times a subscriber changes his selection from a previously selected channel which he is currently viewing and the time the next selected channel is displayed on television 14" (Col 3, Lines 66-67; Col 4, Lines 1-4).

In regard to claim 3, Tsuria discloses that the "local signal" is an audio signal. The "CATV source 15 is operable to transmit advertisement data, preferably in the form of slides accompanied by voice data" (Col 3, Lines 55-57), where the voice data is clearly an audio signal.

In regard to claim 4, Tsuria discloses that the "local signal" is a graphics signal. The "CATV source 15 is operable to transmit advertisement data, preferably in the form of slides accompanied by voice data" (Col 3, Lines 55-57), where the slides are clearly a graphics signal.

In regard to claim 5, Tsuria discloses a device for displaying an alternate signal on a screen of a video display device during a tune operation for use in a digital CATV system. Therefore, it is inherent that system has a demultiplexer for recalculating a new program stream based on the channel change command.

In regard to claim 6, the claimed method is met by Figure 1. The claimed step of "recognizing the delay period associated with the execution of the channel change command" is carried out by processor 28 of Figure 1. The claimed step of "transmitting a request for a local signal, wherein the local signals

are stored in memory” is met by modem 36 and memory unit 30 of Figure 1. The claimed step of “receiving a local signal in response to the transmitted request” is also met by modem 36 of Figure 1. Modem 36 is also coupled, via a telephone interface 38, to a telephone network. Modem 36 is operable to communicate between processor 28 and a telephone facility” (Col 3, Lines 37-41). The claimed step of “inserting the local signal during the delay period” is met by Figure 1. “During zapping periods, processor 28 is operable to retrieve the advertisement data from memory 30 and to provide it, via D/A 26, to combiner and amplifier 32 for displaying the advertisement data on television 14” (Col 3, Lines 61-65).

In regard to claim 7, Tsuria discloses the use of targeted advertisements. The displayed advertisements are associated with the channel the user is tuned to. The “separate advertisements are associated with separate channels. An advertisement is displayed on television 14 only between the times a subscriber changes his selection from a previously selected channel which he is currently viewing and the time the next selected channel is displayed on television 14” (Col 3, Lines 66-67; Col 4, Lines 1-4).

In regard to claim 8, Tsuria discloses that the “local signal” is an audio signal. The “CATV source 15 is operable to transmit advertisement data, preferably in the form of slides accompanied by voice data” (Col 3, Lines 55-57), where the voice data is clearly an audio signal.

In regard to claim 9, Tsuria discloses that the “local signal” is a graphics signal. The “CATV source 15 is operable to transmit advertisement data,

preferably in the form of slides accompanied by voice data" (Col 3, Lines 55-57), where the slides are clearly a graphics signal.

In regard to claim 12, Tsuria indicated that the disclosed system may also be used in an analog CATV system. And, the "CATV source 15 is operable to transmit advertisement data" (Col 3, Lines 55-56), which would be an analog TV channel.

In regard to claim 14, Tsuria discloses a device for displaying an alternate signal on a screen of a video display device during a tune operation for use in a digital CATV system. Therefore, it is inherent that system has a demultiplexer for recalculating a new program stream based on the channel change command.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 10-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tsuria in view of Zigmond et al. (US Pat No 6,698,020) .

In regard to claim 10, Tsuria discloses a device for displaying an alternate signal on a screen of a video display device during a tune operation. Tsuria fails to explicitly disclose that the "local signal" is an HTML page. Zigmond et al. teaches the use of HTML as a local signal so as to provide "advertisements originating from advertisers that traditionally have not had access to television or advertising production resources for economic or other reasons" (Col 9, Lines 15-

18). The "advertisements delivered from ad source 62 are inexpensively converted from traditionally non-video media. For example, text, graphics, pictures, or audio from a computer generated document (i.e., an HTML page) is converted into a video display such as a freeze-frame or slide show" (Col 9, Lines 8-14). Consequently, it would have been clearly obvious to one of ordinary skill in the art to implement Tsuria with the use of HTML as a local signal so as to provide "advertisements originating from advertisers that traditionally have not had access to television or advertising production resources for economic or other reasons" (Col 9, Lines 15-18).

In regard to claim 11, the combination of Tsuria and Zigmond et al. discloses a device for displaying an alternate signal on a screen of a video display device during a tune operation. The combination of Tsuria and Zigmond et al. fails to explicitly disclose that the "local signal" is a Java application. However, the examiner takes OFFICIAL NOTICE that it is notoriously well known in the art to use a Java application as a "local signal" so as to provide an interactive advertisement. Consequently, it would have been clearly obvious to one of ordinary skill in the art to implement the combination of Tsuria and Zigmond et al. with Java application as a "local signal" so as to provide an interactive advertisement.

Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tsuria.

In regard to claim 13, Tsuria discloses a device for displaying an alternate signal on a screen of a video display device during a tune operation for use in a

digital CATV system. Tsuria fails to explicitly disclose that the "local signal" is locally stored MPEG stream. However, the examiner takes OFFICIAL NOTICE that it is notoriously well known in the art to store local signals as MPEG streams so compress the local signal to efficiently use the allocated memory. Consequently, it would have been clearly obvious to one of ordinary skill in the art to modify Tsuria to store local signals as MPEG streams so compress the local signal to efficiently use the allocated memory.

### ***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure as follows.

- The Picco et al. (US Pat No 6,029,045) discloses a system and method for inserting local content into programming content.
- The Lonctaux (US Pat No 6,304,852) discloses a method of communicating computer operations during a wait period.
- The Sullivan et al. (US Pat No 6,593,973) discloses a method and apparatus for providing information in video transitions.
- The Raiyat (US Pat No 6,665,017) reference discloses a television receiver receiving a plurality of channels carrying a data signal representing pages of information.
- The Krishnamurthy et a. (US Pat No 6,665,872) discloses a latency-based statistical multiplexing system.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Manning whose telephone number is




703-305-0345. The examiner can normally be reached on M-F: 7:30 - 5:00 (off every other Wednesday).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W Miller can be reached on 703-305-4795. The fax phone numbers for the organization where this application or proceeding is assigned are 703-746-9695 for regular communications and 703-746-9695 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to customer service whose telephone number is (703) 308-HELP.

JM  
May 17, 2004



JOHN MILLER  
SUPERVISORY PATENT EXAMINER  
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